

TABLE OF CONTENTS

CHAPTER He-M 500 DEVELOPMENTAL SERVICES

PART He-M 517 MEDICAID-COVERED HOME AND COMMUNITY-BASED CARE SERVICES
FOR PERSONS WITH DEVELOPMENTAL DISABILITIES AND ACQUIRED
BRAIN DISORDERS

Section He-M 517.01 Purpose.....	1
Section He-M 517.02 Definitions.....	1
Section He-M 517.03 Eligibility.....	5
Section He-M 517.04 Provider Participation.....	6
Section He-M 517.05 Covered Services.....	7
Section He-M 517.06 Non-Covered Services.....	13
Section He-M 517.07 Documentation.....	13
Section He-M 517.08 Utilization Control.....	18
Section He-M 517.09 Appeals.....	20
Section He-M 517.10 Payment.....	20
Section He-M 517.11 Waivers.....	21

NEW HAMPSHIRE CODE OF ADMINISTRATIVE RULES

PART He-M 517 MEDICAID-COVERED HOME AND COMMUNITY-BASED CARE SERVICES FOR PERSONS WITH DEVELOPMENTAL DISABILITIES AND ACQUIRED BRAIN DISORDERS

Statutory Authority: RSA 171-A:3; 171-A:4; 171-A:18, IV; RSA 137-K:3, I, II,-IV

He-M 517.01 Purpose. The purpose of these rules is to define the requirements and procedures for medicaid-covered home and community-based care waiver services for persons with developmental disabilities and acquired brain disorders where such services are provided pursuant to He-M 503, He-M 507, He-M 513, He-M 518, He-M 521, He-M 522, He-M 525, and He-M 1001.

He-M 517.02 Definitions. The words and phrases in this chapter shall have the following meanings:

(a) “Acquired brain disorder” means a disruption in brain functioning that:

- (1) Is not congenital or caused by birth trauma;
- (2) Presents a severe and life-long disabling condition which significantly impairs a person’s ability to function in society;
- (3) Occurs prior to age 60;
- (4) Is attributable to one or more of the following reasons:
 - a. External trauma to the brain as a result of:
 1. A motor vehicle incident;
 2. A fall;
 3. An assault; or
 4. Another related traumatic incident or occurrence;
 - b. Anoxic or hypoxic injury to the brain such as from:
 1. Cardiopulmonary arrest;
 2. Carbon monoxide poisoning;
 3. Airway obstruction;
 4. Hemorrhage; or
 5. Near drowning;
 - c. Infectious diseases such as encephalitis and meningitis;
 - d. Brain tumor;

NEW HAMPSHIRE CODE OF ADMINISTRATIVE RULES

- e. Intracranial surgery;
- f. Cerebrovascular disruption such as a stroke;
- g. Toxic exposure; or
- h. Other neurological disorders, such as Huntington's disease or multiple sclerosis, which predominantly affect the central nervous system; and

(5) Is manifested by one or more of the following:

- a. Significant decline in cognitive functioning and ability; and
- b. Deterioration in:
 - 1. Personality;
 - 2. Impulse control;
 - 3. Judgment;
 - 4. Modulation of mood; or
 - 5. Awareness of deficits.

(b) "Agency residence" means a community residence operated by staff of an area agency or an area agency subcontractor.

(c) "Area agency" means "area agency" as defined under RSA 171-A:2, I-b, namely, "an entity established as a non-profit corporation in the state of New Hampshire which is established by rules adopted by the commissioner to provide services to developmentally disabled persons in the area."

(d) "Basic living skills" means activities accomplished each day to acquire or maintain independence in daily life.

(e) "Bureau" means the bureau of developmental services of the department of health and human services.

(f) "Bureau administrator" means the chief administrator of the bureau of developmental services or his or her designee.

(g) "Centralized service site" means a location operated by a provider agency where individuals receive community participation services for more than one hour per day.

(h) "Commissioner" means the commissioner of the department of health and human services, or his or her designee.

(i) "Community integration" means:

NEW HAMPSHIRE CODE OF ADMINISTRATIVE RULES

- (1) Participation in a wide variety of experiences in settings that are available to and used by the general public;
 - (2) Participation in natural relationships with one's family, friends, neighbors, and co-workers; and
 - (3) Expansion of one's personal network of friends to include individuals who do not have disabilities.
- (j) "Community residence" means either an agency residence or family residence exclusive of any independent living arrangement that:
- (1) Provides residential services for at least one individual with a developmental disability, in accordance with He-M 503, or acquired brain disorder in accordance with He-M 522;
 - (2) Provides services and supervision for an individual on a daily and ongoing basis, both in the home and in the community, unless the individual's service agreement states that the individual may be without supervision for specified periods of time;
 - (3) Serves individuals whose services are funded by the department; and
 - (4) Is certified pursuant to He-M 1001, except as allowed in He-M 517.04 (b).
- (k) "Cost of care" means the amount that an individual pays to an area agency because the individual's net income is above the applicable standard of need established in He-W 658.03.
- (l) "Department" means the department of health and human services.
- (m) "Developmental disability" means "developmental disability" as defined in RSA 171-A:2, V, namely, "a disability:
- (a) Which is attributable to an intellectual disability, cerebral palsy, epilepsy, autism or a specific learning disability, or any other condition of an individual found to be closely related to an intellectual disability as it refers to general intellectual functioning or impairment in adaptive behavior or requires treatment similar to that required for persons with an intellectual disability; and
 - (b) Which originates before such individual attains age 22, has continued or can be expected to continue indefinitely, and constitutes a severe handicap to such individual's ability to function normally in society."
- (n) "Family" means a group of 2 or more persons that:
- (1) Is related by marriage, ancestry, or other legal arrangement;
 - (2) Is living in the same household; and
 - (3) Has at least one member who is an individual as defined in (q) below.
- (o) "Family residence" means a community residence that is:

NEW HAMPSHIRE CODE OF ADMINISTRATIVE RULES

- (1) Operated by a person or family residing therein;
 - (2) Under contract with an area agency or provider agency; and
 - (3) Certified pursuant to He-M 1001.
- (p) “Home and community-based care waiver” means the waiver of sections 1902 (a) (10) and 1915 (c) of the Social Security Act which allows the federal Medicaid funding of long-term services for persons in non-institutional settings who are elderly, disabled, or chronically ill.
- (q) “Individual” means a person who has a developmental disability as defined in (m) above or an acquired brain disorder as defined in (a) above.
- (r) “Individualized family support plan (IFSP)” means a written plan for providing services and supports to a child who is eligible for family-centered early supports and services and his or her family.
- (s) “Natural supports” means people such as family, relatives, friends, neighbors, and clergy, and social groups such as religious organizations, co-workers, and social clubs, available to provide comfort and help as part of everyday living as well as during critical events.
- (t) “Participant directed and managed services” means a service arrangement whereby the individual or representative, if applicable, directs the services and makes the decisions about how the funds available for the individual’s services are to be spent. It includes assistance and resources to individuals in order to maintain or improve their skills and experiences in living, working, socializing, and recreating.
- (u) “Personal development” means supporting or increasing an individual’s capacity to make choices, to communicate interests and preferences, and to have sufficient opportunities for exploring and meeting those interests.
- (v) “Provider agency” means an area agency or an entity under contract with an area agency that is responsible for providing services to individuals pursuant to He-M 517.05.
- (w) “Representative” means:
- (1) The parent or guardian of an individual under the age of 18;
 - (2) The legal guardian of an individual 18 or over; or
 - (3) A person who has power of attorney for the individual.
- (x) “Service agreement” means a written agreement between an individual or guardian and the area agency that describes the services that the individual will receive and constitutes an individual service agreement as defined in RSA 171-A:2, X. The term includes a basic service agreement for all individuals who receive services and an expanded service agreement for those who receive more complex services pursuant to He-M 503.11.

NEW HAMPSHIRE CODE OF ADMINISTRATIVE RULES

(y) “Service coordinator” means a person who is chosen or approved by an individual and his or her guardian, if any, and designated by the area agency to organize, facilitate and document service planning and to negotiate and monitor the provision of the individual’s services and who is:

- (1) An area agency service coordinator, family support coordinator, or any other area agency or provider agency employee;
- (2) A member of the individual’s family;
- (3) A friend of the individual; or
- (4) Another person chosen to represent the individual.

(z) “Sheltered workshop” means a segregated facility that provides a supportive environment where individuals are employed and the focus is on meeting the contract objectives of the agency.

(aa) “Skilled nursing or skilled rehabilitative services” means those services that:

- (1) Require the skills of a licensed or certified health professional including, but not limited to:
 - a. Registered nurse;
 - b. Licensed practical nurse;
 - c. Physical therapist;
 - d. Occupational therapist;
 - e. Speech pathologist;
 - f. Audiologist; or
 - g. Other similar health-related professional; and
- (2) Are provided directly by or under the general supervision of such professionals to assure the safety of the individual and to achieve the medically desired result.

He-M 517.03 Eligibility.

(a) Based on availability of funds, home and community-based care shall be available to any individual who:

- (1) Is found to be eligible for services by an area agency pursuant to He-M 503.05, He-M 510.05 or He-M 522.03;
- (2) Pursuant to He-M 517.08 (a), has also been determined by the bureau to be eligible under He-M 503.05, He-M 510.05 or He-M 522.03;

NEW HAMPSHIRE CODE OF ADMINISTRATIVE RULES

(3) Is found to be eligible for medicaid by the department pursuant to He-W 600, as applicable;

(4) Meets institutional level of care criteria as demonstrated by one of the following:

a. A developmental disability that requires at least one of the following:

1. Services on a daily basis for:

(i) Performance of basic living skills;

(ii) Intellectual, physical, or psychological development and well-being;

(iii) Medication administration and instruction in, or supervision of, self-medication by a licensed medical professional; or

(iv) Medical monitoring or nursing care by a licensed professional person;

2. Services on a less than daily basis as part of a planned transition to more independence; or

3. Services on a less than daily basis but with continued availability of services to prevent circumstances that could necessitate more intrusive and costly services; or

b. An acquired brain disorder that requires a skilled nursing facility level of care, which means requiring skilled nursing or skilled rehabilitative services on a daily basis; and

(5) Agrees to make the appropriate payment toward the cost of care as specified in He-W 654.

(b) The bureau shall deny services through the home and community-based care waiver if it determines that the provision of services will result in the loss of federal financial participation for such services.

He-M 517.04 Provider Participation.

(a) Except as allowed by (b) below, all community residences shall be certified pursuant to He-M 1001. Community residences that serve 4 or more people shall also be licensed by the bureau of health facilities administration in accordance with RSA 151:2, I, (e) and He-P 814.

(b) A residence funded under the home and community-based care waiver that provides services to persons with acquired brain disorders and is licensed as a supported residential care facility or a residential treatment and rehabilitation facility under RSA 151:2, I, (e) shall not be required to be certified as a community residence pursuant to He-M 1001.

(c) Personal care services described in He-M 521.03 and provided in the family home of an individual who is 18 years of age or older shall be certified pursuant to He-M 521.09.

NEW HAMPSHIRE CODE OF ADMINISTRATIVE RULES

(d) Participant directed and managed services described in He-M 525.05 shall be certified pursuant to He-M 525.07.

(e) Area agencies shall be enrolled with the New Hampshire medicaid program as providers in order to receive reimbursement for the provision of services under the home and community-based care waiver.

(f) An area agency or provider agency shall allow the bureau to examine its service and financial records at any time for the purposes of audit or review.

(g) When services are to be provided by a subcontractor of an area agency, the area agency shall establish a contract specifying the roles of the area agency and subcontractor agency in service planning, provision and oversight including:

- (1) Implementation of the service agreement;
- (2) Specific training and supervision required for the service providers;
- (3) Compensation amounts and procedures for paying providers;
- (4) Oversight of the service provision, as required by the service agreement;
- (5) Documentation of administrative activities and services provided;
- (6) Fiscal intermediary services provided by the area agency or subcontractor agency to facilitate the delivery of consumer-directed services;
- (7) Quality assessment and improvement activities as required by rules pertaining to the service provided;
- (8) Compliance with applicable laws and rules, including delegation of tasks by a nurse to unlicensed providers pursuant to RSA 326-B and He-M 1201;
- (9) Family support service coordination provided by the area agency;
- (10) Procedures for review and revision of the service agreement as deemed necessary by any of the parties; and
- (11) Provision for any of the parties to dissolve the contract with notice.

He-M 517.05 Covered Services.

(a) All services provided in accordance with the home and community-based care waiver shall be specifically tailored to, and provided in accordance with, the individual's needs, interests, competencies, and lifestyle as described in the individual's service agreement.

(b) Services provided pursuant to He-M 517 shall be designed to maintain and enhance each individual's natural supports.

NEW HAMPSHIRE CODE OF ADMINISTRATIVE RULES

(c) The services identified in (d)-(n) below shall be fundable in accordance with the home and community-based care waiver if such services are identified within an individual's service agreement or IFSP.

(d) Service coordination services shall:

(1) Be provided pursuant to He-M 503.09 – He-M 503.11 or He-M 522.10 – He-M 522.12;

(2) Include the following:

a. Monthly contacts, at a minimum, with the individual or other people who support or serve the individual, unless more frequent contacts are indicated by the service agreement;

b. Quarterly visits with the individual at the individual's residence or site of service, except when a different frequency is required subsequent to provision of participant directed and managed services pursuant to (n) below;

c. Quarterly determination of the individual's satisfaction with services through contact with the individual and his or her:

1. Family;

2. Guardian;

3. Friends; or

4. Service providers, as applicable to the individual's services;

d. Coordination and facilitation of all supports and services delineated in the service agreement;

e. Development and revision of the service agreement;

f. Monitoring, ongoing review and follow-up of all service agreement services; and

g. Referral to the bureau for the assessment of the individual's continued need for waived services pursuant to He-M 517.08; and

(3) Be reimbursed at a monthly rate.

(e) Personal care services shall:

(1) Be provided pursuant to He-M 1001.05, He-M 525.05, or He-M 521.03, as applicable;

(2) Consist of assistance, excluding room and board, provided to individuals to improve or maintain their skills in basic daily living, community integration, and personal development, as delineated in the service agreement; and

(3) Be reimbursed at a daily rate.

NEW HAMPSHIRE CODE OF ADMINISTRATIVE RULES

(f) Community participation services shall:

(1) Be provided in accordance with He-M 507.04;

(2) Include the following as required by the individual's service agreement:

a. Instruction and assistance to learn, improve, or maintain:

1. Social and safety skills in different community settings;

2. Decision-making regarding choice of and participation in community activities;

3. Life skills as applied to community-based activities, such as purchasing items and managing personal funds;

4. Good nutrition and healthy lifestyle;

5. Self-advocacy and rights and responsibilities as citizens; and

6. Any other skill identified by the individual or guardian during service planning and related to the individual's participation in, or contribution to, his or her community;

b. Supports to identify and develop the individual's interests and capacities related to securing employment opportunities, including internships;

c. Services related to job development and on-the-job training;

d. Assistance in finding and maintaining volunteer positions;

e. Supports related to enabling the individual to explore, and participate in, a wide variety of community activities and experiences in settings that are available to the general public;

f. Consultation services as specified in the service agreement to improve or maintain the individual's communication, mobility, and physical and psychological health and well-being; and

g. Transportation related to community participation services, including travel from the individual's residence to locations where the community participation service activities are taking place;

(3) Exclude employment or volunteer positions where the individual is:

a. Being solely supported by persons who are not providers; and

b. Not receiving any services from a provider agency at those locations; and

(4) Be reimbursed at a quarter hour rate.

NEW HAMPSHIRE CODE OF ADMINISTRATIVE RULES

(g) Employment services shall:

- (1) Be provided in accordance with He-M 518;
- (2) Be available to any individual who:
 - a. Has an employment goal; and
 - b. Is not authorized and funded by the NH department' of education's bureau of vocational rehabilitation for the same supported employment service;
- (3) Consist of assistance provided to individuals to:
 - a. Improve or maintain their skills in employment activities; or
 - b. Enhance their social and personal development or well-being within the context of vocational goals;
- (4) Include referral, evaluation, and consultation for adaptive equipment, environmental modifications, communications technology or other forms of assistive technology, and educational opportunities related to the individual's employment services and goals;
- (5) When combined with another employment service, transportation and training in accessing transportation, as appropriate, to and from work; and
- (6) Be reimbursed at a quarter hour rate.

(h) Respite care services shall:

- (1) Be provided pursuant to He-M 513.04 or He-M 513.05;
- (2) Consist of the provision of short-term assistance, in or out of an individual's home, for the temporary relief and support of the family with whom the individual lives; and
- (3) Be reimbursed at a quarter hour rate.

(i) Environmental accessibility modifications shall:

- (1) Include modifications or adaptations to the individual's home environment:
 - a. To ensure his or her health and safety;
 - b. That are required by the individual's service agreement; and
 - c. That are needed to accommodate the medical equipment and supplies that are necessary for the welfare of the individual;
- (2) Include modifications or adaptations to the vehicle used by the individual in order to enable him or her to:

NEW HAMPSHIRE CODE OF ADMINISTRATIVE RULES

- a. Travel in greater safety;
 - b. Access the community; and
 - c. Carry out activities of daily living; and
- (3) Comply with applicable state and local building and vehicle codes.
- (j) Crisis response services shall:
- (1) Consist of direct consultation, clinical evaluation or support to an individual who is experiencing a behavioral, emotional, or medical crisis in order to reduce the likelihood of harm to the person or others and to assist the individual to return to his or her pre-crisis status;
 - (2) Include training and staff development related to the needs of the individual;
 - (3) Include on-call staff for the direct support of the individual in crisis;
 - (4) Be authorized for a period of up to 6 months; and
 - (5) Be reimbursed at a quarter hour rate.
- (k) Community support services shall:
- (1) Be available for an individual who has developed, or is trying to develop, skills to live independently within the community;
 - (2) Consist of assistance, excluding room and board, provided to an individual to:
 - a. Improve or maintain his or her skills in basic daily living and community integration; and
 - b. Enhance his or her personal development and well-being; and
 - (3) Be reimbursed at a quarter hour rate.
- (l) Assistive technology support services shall:
- (1) Consist of evaluation, consultation, or education in the use, selection, lease, or acquisition of assistive technology devices, as well as designing, fitting, and customizing of devices;
 - (2) Not cover the actual cost of assistive technology devices; and
 - (3) Be reimbursed at quarter hour rates.
- (m) Specialty services shall:

NEW HAMPSHIRE CODE OF ADMINISTRATIVE RULES

- (1) Be available to individuals whose medical, behavioral, therapeutic, health or personal needs require services that are particularly designed to address the unique conditions and aspects of their developmental disabilities or acquired brain disorders;
 - (2) Consist of one or more of the following:
 - a. Assessment;
 - b. Consultation;
 - c. Design, development and provision of services;
 - d. Training and supervision of staff and providers; and
 - e. Evaluation of service outcomes;
 - (3) Include documentation indicating the nature of the service, date, and number of units; and
 - (4) Be reimbursed at a quarter hour rate.
- (n) Participant directed and managed services shall:
- (1) Be provided pursuant to He-M 525;
 - (2) Be available for individuals and their families in order to improve or maintain each individual's health and his or her experiences and opportunities in work and community life;
 - (3) Consist of assistance and resources within a flexible process that allows the family and individual to control, to the extent desired, the service provision, including, for each service:
 - a. The type;
 - b. The amount;
 - c. The location;
 - d. The duration; and
 - e. The service provider;
 - (4) Be based on a written proposal that includes:
 - a. A description of the services to be provided that also specifies the expenditures to be made;
 - b. A line-item budget; and
 - c. A process for measuring the individual's degree of satisfaction with the services provided;

NEW HAMPSHIRE CODE OF ADMINISTRATIVE RULES

- (5) Not be provided by the spouse of an individual or the parent of an individual where the individual is a minor child;
- (6) Be provided by persons qualified pursuant to He-M 506.03 in cases where services are provided by relatives other than parents or by friends; and
- (7) Be reimbursed monthly for services provided.

He-M 517.06 Non-Covered Services. The following services shall not be fundable under home and community-based care waivers:

- (a) Educational services or education programs for individuals who are under 21 years of age that are the responsibility of the local education authority;
- (b) Post-secondary education;
- (c) Sheltered workshop services; and
- (d) Custodial care programs provided only to maintain an individual's basic welfare.

He-M 517.07 Documentation.

(a) Providers of home and community-based care for persons with developmental disabilities or acquired brain disorders shall maintain the documentation described in (b)-(k) below at the sites where services are provided.

(b) Service coordination records shall include:

(1) Information about the individual that would be essential in case of an emergency, including:

- a. Name, address, and telephone number of legal guardian or next of kin; and
- b. Medical information, including:
 - 1. Diagnosis(es);
 - 2. Health history;
 - 3. Medications, including dose, frequency, and route;
 - 4. Allergies;
 - 5. Do not resuscitate (DNR) status; and
 - 6. Advance directives;

(2) A copy of each individual's service agreement;

(3) Copies of all service agreement revisions approved by the individual or his/her guardian;

NEW HAMPSHIRE CODE OF ADMINISTRATIVE RULES

- (4) Progress notes on goals for which the service coordinator has primary responsibility;
 - (5) Monthly documentation by the service coordinator of service coordination activities, including activities promoting community participation and integration;
 - (6) At least quarterly documentation assessing progress on goals and identifying whether the services:
 - a. Match the interests and needs of the individual;
 - b. Met with the individual's and guardian's satisfaction; and
 - c. Meet the terms of the service agreement;
 - (7) Copies of all evaluations and reviews by providers and professionals;
 - (8) Copies of correspondence within the past year with the individual or guardian, service providers, physicians, attorneys, state and federal agencies, family members and others in the individual's life with whom the service coordinator has corresponded; and
 - (9) Other correspondence or memoranda concerning any significant events in the individual's life.
- (c) For services provided in a community residence pursuant to He-M 1001, personal care services documentation shall include:
- (1) Individual records, which shall include:
 - a. Information about the individual that would be essential in case of an emergency, including that information specified in (b)(1) above;
 - b. The portion of the service agreement pertaining to residential services, with any revisions; and
 - c. Monthly progress notes;
 - (2) Community residence daily service provision records, which shall:
 - a. Be completed by the service provider;
 - b. Include the date;
 - c. Indicate each individual's daily presence or absence;
 - d. If the individual is not present, indicate the date and time of the individual's departure and return, and include the reason for the absence;
 - e. For those community residences where supervision is less than 24 hours a day, indicate the days in which services were provided; and

NEW HAMPSHIRE CODE OF ADMINISTRATIVE RULES

f. Be on file at both the community residence and the area agency; and

(3) A daily medication log, which shall be completed at the residence pursuant to He-M 1201.07.

(d) For services provided in a family home pursuant to He-M 521, personal care services documentation shall include:

(1) Individual records, which shall include:

- a. Information about the individual that would be essential in case of an emergency, including that information specified in (b)(1) above;
- b. The portion of the service agreement pertaining to residential services with any revisions; and
- c. Monthly progress notes; and

(2) Daily service provision records, which shall:

- a. Be completed by the service provider;
- b. Include the date; and
- c. Indicate days that services were provided.

(e) For community participation services pursuant to He-M 507, individual records shall include:

(1) A copy of the current service agreement containing:

- a. Goals and desired outcomes specific to the individual's participation in community participation services; and
- b. The methods or strategies for achieving the individual's community participation services' goals and desired outcomes;

(2) As a guide for planning activities, an individual, week-long, personal schedule or calendar that is created at the time of the annual service planning meeting and, if applicable, identifies:

- a. The days, times, and locations of the individual's:
 1. Paid employment;
 2. Community activities, volunteerism, or internship; and
 3. Other regularly recurring activities, such as therapeutic activities related to communication, mobility, and personal care; and

NEW HAMPSHIRE CODE OF ADMINISTRATIVE RULES

b. The days and approximate times of unspecified community activities, which shall not exceed 20% of the total day service hours the individual receives per week;

(3) A record of daily community participation services activities maintained by the provider agency, which shall include the following:

- a. The name(s) of individual(s) served and names of staff supporting them;
- b. The dates on which services were provided; and
- c. Activities that took place and the locations of the activities;

(4) Narrative progress notes, and other service documentation as specified in the service agreement, recorded at least monthly, and addressing:

- a. The individual's community participation services goals and actual outcomes; and
- b. Other activities related to the individual's support services, health, interests, achievements, and relationships;

(5) The individual's medical status, including current medications, known allergies, and other pertinent health care information;

(6) Results of any screenings or evaluations including, if applicable:

- a. The Supports Intensity Scale (2004 edition), available as noted in Appendix A;
- b. Vocational assessments;
- c. Results of any assistive technology assessments;
- d. The Health Risk Screening Tool (HRST) (2009 edition), available as noted in Appendix A;
- e. Systematic, therapeutic, assessment, respite and treatment (START) in-depth assessments and crisis plans; and
- f. Risk management plans for individuals who are deemed to pose a risk to community safety; and

(7) For each individual for whom medications are administered during community participation services, medication log documentation pursuant to He-M 1201.07.

(f) Individual records for employment services shall include:

- (1) Information about the individual that would be essential in case of an emergency, including that information specified in (b)(1) above;
- (2) The portion of the service agreement pertaining to employment services, with any revisions;

NEW HAMPSHIRE CODE OF ADMINISTRATIVE RULES

- (3) Quarterly progress notes regarding services provided and progress toward goals identified in the service agreement;
 - (4) Weekly work schedules; and
 - (5) If there is a provider agency staff person with the individual or individuals at the job site:
 - a. Service provision records, including documentation of the individual's attendance at work; and
 - b. As needed, notation of any employment-related events apart from each individual's expected work routine.
- (g) Respite service records shall include attendance records indicating the dates and duration of the services provided.
- (h) Environmental accessibility modifications documentation shall include:
- (1) A specific description of the modifications and estimate(s) of cost;
 - (2) A rationale as to why the requested modification is specifically related to the individual's disability;
 - (3) The section of the individual's service agreement or IFSP that specifies the need for the modifications; and
 - (4) The date of completion.
- (i) Crisis response documentation shall include:
- (1) A brief description of the crisis written by the service coordinator;
 - (2) An initial summary of the crisis response services proposed;
 - (3) Monthly progress notes, including a description of the services provided and the individual's response to services; and
 - (4) Service provision records indicating the units of services provided.
- (j) Community support services documentation shall include:
- (1) Individual records, which shall include:
 - a. Information about the individual that would be essential in case of an emergency, including that information specified in (b)(1) above;
 - b. A service agreement with all approved revisions; and
 - c. Monthly progress notes; and

NEW HAMPSHIRE CODE OF ADMINISTRATIVE RULES

- (2) Service provision records indicating the units of services provided.
- (k) Participant directed and managed services documentation shall include:
- (1) Individual records, including:
 - a. Information about the individual that would be essential in case of an emergency, including that information specified in (b)(1) above;
 - b. The portion of the individual's service agreement pertaining to participant directed and managed services, with any revisions;
 - c. Monthly progress notes;
 - d. Monthly notes describing the family's satisfaction with the services; and
 - e. Monthly financial statements provided to the individual and family by the area agency or representative; and
 - (2) Detailed description of all services provided, including:
 - a. The date;
 - b. The activity or type of service;
 - c. The location;
 - d. The duration; and
 - e. The provider.
- (l) Assistive technology support services documentation shall include:
- (1) A brief statement in the service agreement or IFSP describing the need for assistive technology support services;
 - (2) A report of any evaluation or consultation performed, with recommendations;
 - (3) A report regarding the nature of the services provided;
 - (4) Records indicating the dates and units of services provided; and
 - (5) For lease of assistive technology equipment, a written proposal for the cost of the lease.
- (m) Each provider agency shall retain individual records for a period of 7 years following the termination of services to an individual.

He-M 517.08 Utilization Control.

NEW HAMPSHIRE CODE OF ADMINISTRATIVE RULES

(a) Recipients shall undergo an initial determination of eligibility and annual reassessment of the need for continued services. The bureau shall determine the need for services based on the criteria specified in He-M 517.03.

(b) To request determination of eligibility and service authorization for home and community-based care services for an individual, the area agency shall complete and submit to the bureau through Xerox Provider Services a "NH bureau of developmental services functional screen for waiver services" form (edition 5/22/13) at least 30 days prior to initiation of the services or at least 30 days prior to expiration of the current authorization.

(c) In the case of environmental modification or vehicle requests in excess of \$5,000, each request shall include 2 cost estimates.

(d) To request prior authorization of a change in covered services within a current authorization period, the area agency shall complete and submit:

(1) A written request for authorization of the change; and

(2) An updated "NH bureau of developmental services functional screen for waiver services" form (edition 5/22/13).

(e) The bureau shall approve or deny requests for prior authorization of services following determination of the need for services pursuant to He-M 517.03.

(f) If information submitted pursuant to (b) or (d) above, or similar information obtained at any other time by the bureau, indicates that an individual might no longer meet the criteria for home and community-based care specified in He-M 517.03 (a)(4) a. or b., the bureau shall redetermine the individual's eligibility pursuant to (b)-(e) above.

(g) For initial service determinations and annual reviews of eligibility, the department shall notify:

(1) The area agency, the department's district office, and Xerox of approvals; and

(2) The area agency of denials, including the reason.

(h) In every case of denial of a request for prior authorization of services, the area agency shall notify the individual affected, in writing, of the decision and the reasons for the denial.

(i) Notification pursuant to (g) above shall include:

(1) The specific rules that support, or the federal or state law that requires, the action;

(2) An explanation of the individual's right to request an appeal and the procedure and timelines set forth in He-M 517.09;

(3) Notice that the individual has the right to have representation with an appeal by:

a. Legal counsel;

b. A relative;

NEW HAMPSHIRE CODE OF ADMINISTRATIVE RULES

- c. A friend; or
- d. Another spokesperson;

(4) Notice that neither the area agency nor the bureau is responsible for the cost of representation; and

(5) Notice of organizations that might offer assistance or representation to the individual, including pro bono or reduced fee assistance.

He-M 517.09 Appeals.

(a) Within 30 working days of receipt of a final decision as described in He-M 517.03 or pursuant to He-M 517.08 (h), the individual or guardian may appeal in accordance with He-C 200.

(b) Appeals shall be forwarded to the bureau administrator, in writing, in care of the department's office of client and legal services.

(c) The bureau administrator shall immediately forward the appeal to the department's administrative appeals unit which shall assign a presiding officer to conduct a hearing or independent review, as provided in He-C 200. The burden shall be as provided by He-C 203.14.

(d) If a hearing is requested, the following actions shall occur:

(1) For current recipients, services and payments shall be continued as a consequence of an appeal for a hearing until a decision has been made; and

(2) If the bureau's decision is upheld, benefits shall cease 60 days from the date of the denial letter or 30 days from the hearing decision, whichever is later.

He-M 517.10 Payment.

(a) Community-based care providers shall submit claims for covered community-based care services to:

Xerox Provider Services
ATTN: Claims Administration
PO Box 2003
Concord, NH 03302-2003

(b) Payment for community-based care services shall only be made if prior authorization has been obtained from the bureau pursuant to He-M 517.08 (c).

(c) Requests for prior authorization shall be made electronically utilizing the NH Medicaid Management Information System or in writing to:

Xerox Provider Services
ATTN: Claims Administration
PO Box 2003

NEW HAMPSHIRE CODE OF ADMINISTRATIVE RULES

Concord, NH 03302-2003

(d) For those individuals whose net income exceeds the appropriate standard of need, medicaid claims payment will reflect a reduction in reimbursement equal to the cost of care amount.

(e) Payment for community-based care services shall not be available to any service provider who:

- (1) Is the parent of an individual under age 18;
- (2) Is a person under age 18; or
- (3) Is the spouse of an individual receiving services.

He-M 517.11 Waivers.

(a) An applicant, area agency, provider agency, individual, guardian, or provider may request a waiver of specific procedures outlined in He-M 517 using the form titled "NH bureau of developmental services waiver request" (September 2013 edition). The area agency shall submit the request in writing to the bureau administrator.

(b) A completed waiver request form shall be signed by:

- (1) The individual or guardian indicating agreement with the request; and
- (2) The area agency's executive director or designee recommending approval of the waiver.

(c) A waiver request shall be submitted to:

Department of Health and Human Services
Office of Client and Legal Services
Hugh J. Gallen State Office Park
105 Pleasant Street, Main Building
Concord, NH 03301

(d) No provision or procedure prescribed by statute shall be waived.

(e) The request for a waiver shall be granted by the commissioner within 30 days if the alternative proposed by the requesting entity meets the objective or intent of the rule and it:

- (1) Does not negatively impact the health or safety of the individual(s); and
- (2) Does not affect the quality of services to individuals.

(f) Upon receipt of approval of a waiver request, the requesting entity's subsequent compliance with the alternative provisions or procedures approved in the waiver shall be considered compliance with the rule for which waiver was sought.

(g) Waivers shall be granted in writing for a specific duration not to exceed 5 years except as in (h) below.

NEW HAMPSHIRE CODE OF ADMINISTRATIVE RULES

(h) Those waivers which relate to other issues relative to the health, safety or welfare of individuals that require periodic reassessment shall be effective for the current certification period only.

(i) Any waiver shall end with the closure of the related program or service.

(j) A requesting entity may request a renewal of a waiver from the bureau. Such request shall be made at least 90 days prior to the expiration of a current waiver.